

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

CITY OF ALMATY, KAZAKHSTAN
and BTA BANK JSC,

Plaintiffs,

v.

MUKHTAR ABLYAZOV, ILYAS KHRAPUNOV,
VIKTOR KHRAPUNOV, and TRIADOU SPV S.A.,

Defendants.

No. 15 Civ. 5345 (AJN) (KHP)

**DECLARATION OF MATTHEW L. SCHWARTZ IN OPPOSITION TO
DEFENDANT TRIADOU SPV S.A.'S MOTION FOR SUMMARY JUDGMENT**

I, MATTHEW L. SCHWARTZ, declare as follows:

1. I am partner in the law firm of Boies Schiller Flexner LLP, counsel for Plaintiffs City of Almaty, Kazakhstan (“Almaty”) and BTA Bank JSC (“BTA” and with Almaty, the “Kazakh Entities”) in the above-captioned case. I am licensed to practice law in the State of New York and am admitted to practice in the courts of that State, the United States Supreme Court, the United States Courts of Appeals for the Second, Ninth, Eleventh, and District of Columbia Circuits, and the United States District Courts for the District of Colorado and the Eastern and Southern Districts of New York. I submit this declaration in opposition to Defendant Triadou SPV S.A.’s (“Triadou’s”) motion for partial summary judgment.

2. Attached hereto as Exhibit 171 is a true and correct copy of excerpts of a transcript of a Rule 30(b)(6) deposition of BTA, through Nurlan Nurgabylov, dated May 3, 2017.

3. Attached hereto as Exhibit 172 is a true and correct copy of excerpts of a transcript of a deposition of Defendant Ilyas Khrapunov, dated February 1, 2018.

4. Attached hereto as Exhibit 173 is a true and correct copy of excerpts of a transcript of a deposition of Defendant Viktor Khrapunov, dated January 30, 2018.

5. Attached hereto as Exhibit 174 is a true and correct copy of excerpts of a transcript of a deposition of Felix Sater, dated September 13, 2018.

6. Attached hereto as Exhibit 175 is a true and correct copy of excerpts of a transcript of a deposition of Kairat Sadykov, dated September 19, 2019.

7. Attached hereto as Exhibit 176 is a true and correct copy of excerpts of a transcript of a deposition of Frank Monstrey, dated July 17, 2018.

8. Attached hereto as Exhibit 177 is a true and correct copy of excerpts of a transcript of a deposition of Defendant Mukhtar Ablyazov, dated October 30, 2018.

9. Attached hereto as Exhibit 178 are true and correct copies of a “Client Explanation Memo” prepared by SMP Partners Limited (“SMP Partners”) and produced starting at Almaty-BTA0350354. As of the time of production of Exhibit 178, the document was still in SMP Partners’ possession. As explained in the deposition of the Kazakh prosecutor responsible for overseeing international assistance requests, SMP Partners’ records were acquired by law enforcement authorities in the Isle of Man and transmitted to law enforcement authorities in Kazakhstan pursuant to a mutual legal assistance treaty (“MLAT”) request. The SMP Partners documents were later lawfully provided to BTA in its capacity as a recognized victim of crime under Kazakh law. *See* Ex. 384 at 10:6–23, 11:7–22, 12:8–12, 13:9–14:14, 40:2–20, 41:23–45:25, 46:23–48:12, 48:20–49:7, 50:6–54:4, 92:14–23 100:13–102:12 (Kurmanov Dep.). *See generally* *United States v. Gelzer*, 50 F.3d 1133, 1140–41 (2d Cir. 1995).

10. Attached hereto as Exhibit 179 is a true and correct copy of excerpts of a transcript of a deposition of Bruce Dubinsky, dated August 21, 2019.

11. Attached hereto as Exhibit 180 is a true and correct copy of excerpts of a transcript of the second day of Ablyazov's deposition, dated October 31, 2018.

12. Attached hereto as Exhibit 181 is a true and correct copy of "Crossclaim-Plaintiffs' First Set of Requests for Admission to Defendant Mukhtar Ablyazov," dated November 27, 2017, and previously filed as ECF No. 1298-6.

13. Attached hereto as Exhibit 182 are true and correct copies of a memo from the Southern District's Pro Se Intake Unit to Daniel G. Boyle, then an attorney with Boies Schiller Flexner LLP, and of an attached January 31, 2018, *pro se* filing titled "Responses and Objections of Mukhtar Ablyazov to First Set Requests for Admissions Dated 27 November 2017," previously filed as ECF No. 1298-7.

14. Attached hereto as Exhibit 183 is a true and correct copy of excerpts of a transcript of a deposition of Ryan Pisarik, dated August 28, 2019.

15. Attached hereto as Exhibit 184 is a true and correct copy of the translation of a December 26, 2005, e-mail thread between BTA employees at the time and Alexander Udovenko of Eastbridge Capital Ltd., produced starting at Almaty-BTA0077310 and labeled as MA 1T.

16. Attached hereto as Exhibit 185 is a true and correct copy of the December 26, 2005, e-mail thread between BTA employees and Udovenko, produced starting at Almaty-BTA0077309 and labeled as MA 1.

17. Attached hereto as Exhibit 186 is a true and correct copy of excerpts of a transcript of a deposition of Zaure Junussova, dated September 18, 2019.

18. Attached hereto as Exhibit 187 is a true and correct copy of excerpts of a transcript of a deposition of Akhzhhan Moldakhmet, dated September 19, 2019.

19. Attached hereto as Exhibit 188 is a true and correct copy of January 22, 2009, to January 23, 2009, e-mail thread among Sadykov, Junussova, Udovenko, and others, produced starting at Almaty-BTA0095955 and labeled as PX 251.

20. Attached hereto as Exhibit 189 are true and correct copies of a January 21, 2019, letter from Ysanne Williamson, International Cooperation & Asset Recovery United, Attorney General's Chambers, Isle of Man, to G. Koieldiyev, Prosecutor General's Office, Republic of Kazakhstan ("Kazakhstan"); of the attached sworn written deposition of David Anthony Manser of SMP Partners; and of the attached Exhibit DAM-001, a witness statement of Manser's. The letter and attachments were produced starting at Almaty-BTA0321199 and labeled as PX 262. The document is one of SMP Partners' records provided by Kazakh criminal investigators through the Isle of Man. *See supra ¶ 9.*

21. Attached hereto as Exhibit 190 is a true and correct copy of a Client Agreement between MeesPierson Intertrust Limited and Yerzhan Tatishev. The document was produced starting at Almaty-BTA0393323 and labeled as PX 252. The document is one of SMP Partners' records provided by Kazakh criminal investigators through the Isle of Man. *See supra ¶ 9.*

22. Attached hereto as Exhibit 191 is a true and correct copy of excerpts of a transcript of Monstrey's deposition, dated December 12, 2018.

23. Attached hereto as Exhibit 192 is a true and correct copy of excerpts of a transcript of a deposition of Gennady Petelin, dated August 21, 2018.

24. Attached hereto as Exhibit 193 is a true and correct copy of an agreement signed by Harrison Limited and Ablyazov, produced as Almaty-BTA0350740. The document is one of SMP Partners' records provided by Kazakh criminal investigators through the Isle of Man. *See supra ¶ 9.*

25. Attached hereto as Exhibit 194 are true and correct copies of certain documents and excerpts filed on a USB drive labeled as PX 247. The exhibit comprises e-mails from z_dgunusova@bta.kz to gdyusenbina@bta.kz dated August 13, 2007, January 29, 2008, and October 13, 2008, with a selection of excerpts of the e-mails' attached spreadsheets. The documents were produced as Almaty-BTA0078916, Almaty-BTA0078928, Almaty-BTA0080303, Almaty-BTA0080315, Almaty-BTA0080321, Almaty-BTA0080331, Almaty-BTA0080373, Almaty-BTA0086656, Almaty-BTA0086668, Almaty-BTA0086678, Almaty-BTA0086680, Almaty-BTA0086682, Almaty-BTA0086684, and Almaty-BTA0086698.

26. Attached hereto as Exhibit 195 are true and correct copies of a January 11, 2008, e-mail from Yulia Salyuleva to Svetlana Nachinkina and Junussova, and an excerpt of the e-mail's attached spreadsheet, produced starting at Almaty-BTA0080200 and labeled as PX 240T.

27. Attached hereto as Exhibit 196 is a true and correct copy of a translation of a June 4, 2009, "Witness Interrogation Protocol" prepared by Kazakh financial police senior lieutenant A.A. Rakishev and signed by witness E.O. Dikanbaev, with a translation, produced as Almaty-BTA0231068 to Almaty-BTA0231070 and Almaty-BTA0231047 to Almaty-BTA0231048.

28. Attached hereto as Exhibit 197 are true and correct copies of a January 28, 2005, Trasta Komerc Bank application completed by Balgaven Invest Inc. and of the application's attachments, produced starting at Almaty-BTA0115466 and labeled as PX 241.

29. Attached hereto as Exhibit 198 is a true and correct copy of a BTA spreadsheet titled "Comwork Ltd.," with a translation, produced as Almaty-BTA0082789 and Almaty-BTA0082790. The spreadsheet, like others created by BTA staff, qualifies as a business record because it was made as a regular practice of BTA staff, kept in the course of a regularly conducted activity of BTA, made and updated at or near the time of the events they were describing, and

made by someone with knowledge of the information contained in them or in possession of documents prepared by another person with such knowledge. *See* Ex. 186 at 43:16–44:2, 44:9–11 (Junussova Dep.); Ex. 187 at 24:20–25:9 (Moldakhmet Dep.).

30. Attached hereto as Exhibit 199 is a true and correct copy of a December 21, 2007, e-mail produced as Almaty-BTA0079991 and labeled as PX 242.

31. Attached hereto as Exhibit 200 is a true and correct copy of the translation of a December 21, 2007, e-mail, produced as Almaty-BTA0079992 and labeled as PX 242T.

32. Attached hereto as Exhibit 201 is a true and correct copy of a December 24, 2007, e-mail produced as Almaty-BTA0080001 and labeled as PX 243.

33. Attached hereto as Exhibit 202 is a true and correct copy of the translation of a December 24, 2007, e-mail, produced as Almaty-BTA0080002 and labeled as PX 243T.

34. Attached hereto as Exhibit 203 is a true and correct copy of a November 28, 2018, *bne Intellinews* article titled “Kazakh Fugitive Banker Ablyazov Sentenced to Life for Orchestrating Murder” and located at <https://www.intellinews.com/kazakh-fugitive-banker-ablyazov-sentenced-to-life-for-orchestrating-murder-152720>.

35. Attached hereto as Exhibit 204 is a true and correct copy of a BTA spreadsheet titled “Loan Portfolio Behaviour as Broken Down by Companies,” with a translation, produced as Almaty-BTA0072242 and Almaty-BTA0072243.

36. Attached hereto as Exhibit 205 is a true and correct copy of a November 4, 2011, to November 5, 2011, e-mail thread among Monstrey, Steve McGowan of SMP Partners, and Stephen Whitehead of SMP Partners, produced starting at Almaty-BTA0307486.

37. Attached hereto as Exhibit 206 is a true and correct copy of excerpts of a JPMorganChase wire transfer spreadsheet for Chase File No. SB844948-F1, produced as Almaty-

BTA0231174. The spreadsheet constitutes a business record as explained in Exhibit 207, a true and correct copy of an affidavit of Andre Ramirez, dated July 7, 2017.

38. Attached hereto as Exhibit 208 is a true and correct copy of excerpts of a transcript of a deposition of Nicolas Bourg, dated September 11, 2017.

39. Attached hereto as Exhibit 209 is a true and correct copy of excerpts of a transcript of a deposition of Philippe Glatz, dated September 27, 2017.

40. Attached hereto as Exhibit 210 is a true and correct copy of excerpts of a transcript of a deposition of Marc Gillieron, dated October 3, 2017.

41. Attached hereto as Exhibit 211 is a true and correct copy of excerpts of a transcript of a deposition of Luigi Rosabianca, dated January 17, 2018.

42. Attached hereto as Exhibit 212 is a true and correct copy of excerpts of a transcript of the second day of Bourg's deposition, dated September 12, 2017.

43. Attached hereto as Exhibit 213 is a true and correct copy of excerpts of a transcript of the second day of Viktor Khrapunov's deposition, dated January 31, 2018.

44. Attached hereto as Exhibit 214 is a true and correct copy of a November 27, 2013, e-mail from Wend to Angelica Sahagun of Azure Consultants JLT ("Azure"), with attachments, produced starting at Almaty-BTA0236888 and labeled as PX 98. As of the time of production of Exhibit 214, the document was still in the possession of Eesh Aggarwal of Azure Consultants. As explained in the sworn statement of the Kazakh prosecutor responsible for overseeing international assistance requests, Aggarwal's records were acquired by law enforcement authorities in the United Arab Emirates ("UAE"), and transmitted to law enforcement authorities in Kazakhstan pursuant to a request for assistance under various international treaties and conventions. The Aggarwal documents were later lawfully provided to BTA in its capacity as a recognized victim

of crime under Kazakh law. *See* Ex. 385 at 5:10–6:11, 7:20–8:4, 8:11–10:10, 12:4–13:21, 14:5–14 (Kurmanov Statement). *See generally* *Gelzer*, 50 F.3d at 1140–41. Aggarwal’s records are collectively labeled as Kurmanov B.

45. Attached hereto as Exhibit 215 is a true and correct copy of excerpts of a transcript of Ilyas Khrapunov’s deposition, dated February 2, 2018.

46. Attached hereto as Exhibit 216 is a true and correct copy of a November 18, 2013, to November 26, 2013, e-mail thread among Aggarwal, Azure staff members, and others, produced starting at Almaty-BTA0236883. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra* ¶ 44.

47. Attached hereto as Exhibit 217 is a true and correct copy of a November 27, 2013, e-mail thread from Wend to Sahagun, with an attachment, produced starting at Almaty-BTA0236888.

48. Attached hereto as Exhibit 218 is a true and correct copy of an October 24, 2012, e-mail thread between Wend and Azure e-mail accounts, produced starting at Almaty-BTA0236896. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra* ¶ 44.

49. Attached hereto as Exhibit 219 is a true and correct copy of an October 2, 2013, letter from Elena Petelina to Anshu Aggarwal of Lampwood Limited, produced as Almaty-BTA0235098 and included in a selection of documents labeled as PX 102.

50. Attached hereto as Exhibit 220 is a true and correct copy of a chart titled “N Project – Cash movements 02.10.2013,” produced as Almaty-BTA0241880. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra* ¶ 44.

51. Attached hereto as Exhibit 221 is a true and correct copy of a May 5, 2013, e-mail between Aggarwal and Azure e-mail accounts, with attachments, produced starting at Almaty-BTA0233528. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

52. Attached hereto as Exhibit 222 is a true and correct copy of an October 2, 2013, letter from Petelina to Nachila Peeraly Hassanaly of Accord Consulting Inc., produced as Almaty-BTA0235102 and included in a selection of documents labeled as PX 102.

53. Attached hereto as Exhibit 223 is a true and correct copy of an "Agreement for the Provision of Nominee Services of Director and/or Secretary and/or Member," dated February 19, 2012, produced starting at Almaty-BTA0235098, and included in a selection of documents labeled as PX 102.

54. Attached hereto as Exhibit 224 is a true and correct copy of a November 7, 2011, e-mail from Cesare Cerrito to Gillieron, with an attachment, produced as Tria0008537 and Tria0008538.

55. Attached hereto as Exhibit 225 is a true and correct copy of a June 6, 2013, e-mail from Dan Ridloff to Sater, with an attachment, labeled as Sater 10.

56. Attached hereto as Exhibit 226 is a true and correct copy of excerpts of a transcript of a Rule 30(b)(6) deposition of Triadou, through Cerrito, dated March 9, 2017.

57. Attached hereto as Exhibit 227 is a true and correct copy of excerpts of a transcript of a Rule 30(b)(6) deposition of Mission Capital Advisors ("Mission Capital"), through Will Sledge, dated August 10, 2017.

58. Attached hereto as Exhibit 228 is a true and correct copy of an April 16, 2013, letter from Ridloff to Kyle Kaminski of Mission Capital, with attachments, produced starting at MCA0000059 and labeled as PX 40.

59. Attached hereto as Exhibit 229 is a true and correct copy of an October 3, 2014, to October 8, 2014, e-mail thread involving Cerrito, Petr Krasnov, Kevin Meyer, and Bourg, produced starting at Tria0001177 and labeled as PX 24.

60. Attached hereto as Exhibit 230 is a true and correct copy of excerpts of a transcript of a deposition of Joseph Chetrit, dated May 25, 2017.

61. Attached hereto as Exhibit 231 is a true and correct copy of Bourg's November 2, 2016, affidavit, produced as Almaty-BTA0201942 and labeled as Bourg 12.

62. Attached hereto as Exhibit 232 is a true and correct copy of a July 25, 2012, e-mail thread involving Cerrito, Jean-Francois Garneau, Gillieron, and others, produced starting at Tria0002289.

63. Attached hereto as Exhibit 233 is a true and correct copy of a May 5, 2013, e-mail between Eesh Aggarwal and Azure e-mail accounts, with attachments, produced starting at Almaty-BTA0234153 and labeled as PX 74. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

64. Attached hereto as Exhibit 234 is a true and correct copy of a May 14, 2013, e-mail among Glatz, Aggarwal, and Azure e-mail accounts, with attachments, produced starting at Almaty-BTA0234159 and labeled as PX 71. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

65. Attached hereto as Exhibit 235 is a true and correct copy of a May 14, 2013, e-mail among Glatz, Aggarwal, and Azure e-mail accounts, with attachments, produced starting at

Almaty-BTA0234123 and labeled as PX 72. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

66. Attached hereto as Exhibit 236 is a true and correct copy of a March 4, 2013, to March 10, 2013, e-mail thread among Ravi Bhatia of ABN AMRO, Aggarwal, and Azure e-mail accounts, with attachments, produced starting at Almaty-BTA0233735. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

67. Attached hereto as Exhibit 237 is a true and correct copy of a March 4, 2013, to March 10, 2013, e-mail thread among Ravi Bhatia of ABN AMRO, Aggarwal, and Azure e-mail accounts, with attachments, produced starting at Almaty-BTA0233737. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

68. Attached hereto as Exhibit 238 is a true and correct copy of excerpts of a transcript of the second day of Glatz's deposition, dated September 28, 2017.

69. Attached hereto as Exhibit 239 is a true and correct copy of a February 29, 2012, e-mail thread between "oilman2030@gmail.com" and Aggarwal, produced as Almaty-BTA0238940 and labeled as PX 202.

70. Attached hereto as Exhibit 240 is a true and correct copy of a June 11, 2013, e-mail between Aggarwal and corporate e-mail accounts of his company Azure, with attachments, produced starting at Almaty-BTA0233656 and labeled as PX 73. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

71. Attached hereto as Exhibit 241 is a true and correct copy of excerpts of a transcript of the second day of Petelin's deposition, dated August 22, 2018.

72. Attached hereto as Exhibit 242 is a true and correct copy of a March 3, 2013, e-mail thread between "thenickelguy@gmail.com" and Aggarwal, produced starting at Almaty-

BTA0233708 and labeled as PX 67. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

73. Attached hereto as Exhibit 243 is a true and correct copy of a January 23, 2013, to March 21, 2013, e-mail thread among Glatz, Aggarwal, and Azure e-mail accounts, produced starting at Almaty-BTA0233772 and labeled as PX 68. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

74. Attached hereto as Exhibit 244 is a true and correct copy of a March 25, 2013, e-mail among Glatz, Aggarwal, and Azure e-mail accounts, with attachments, produced starting at Almaty-BTA0233778 and labeled as PX 69. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

75. Attached hereto as Exhibit 245 is a true and correct copy of excerpts of a transcript of a deposition of Tarig Kozouz, dated August 14, 2019.

76. Attached hereto as Exhibit 246 is a true and correct copy of excerpts of a transcript of Kevin Meyer's deposition, dated April 24, 2018.

77. Attached hereto as Exhibit 247 is a true and correct copy of a "Loan Agreement" signed by Zoulficar Djoma of Telford International Limited ("Telford"), dated November 7, 2012, produced starting at Tria0002928, and labeled as PX 8.

78. Attached hereto as Exhibit 248 is a true and correct copy of excerpts of a Deutsche Bank Trust wire transfer spreadsheet for transferor accounts with a "P.O. Box 487922" address, produced as Almaty-BTA0214280. The spreadsheet constitutes a business record as explained in Exhibit 249, a true and correct copy of a declaration of Randi Enison, dated October 1, 2020.

79. Attached hereto as Exhibit 250 is a true and correct copy of a collection of 2012 to 2013 Telford-related internal reports and e-mails from the FBME Bank Ltd. ("FBME"), as well as

Telford-related Society for Worldwide Interbank Financial Telecommunication (“SWIFT”) records sent to FBME and other Telford-related documents, produced starting at Almaty-BTA0252719. As of the time of production, the documents were still in the possession of the FBME’s Cyprus branch. All of FBME’s records were acquired by the Republic of Cyprus (“Cyprus”) on behalf of the Kazakh Entities through letters rogatory pursuant to the Hague Convention of 18 March 1970 on the Taking of Evidence Abroad in Civil and Commercial Matters.

See ECF Nos. 295, 545.

80. Attached hereto as Exhibit 251 is a true and correct copy of an “Interim Statement of Account” for Telford’s FBME account from August 13, 2009, to October 11, 2016, produced starting as Almaty-BTA0252699. The document is one of FBME’s records provided by Cyprus.

See supra ¶ 79.

81. Attached hereto as Exhibit 252 is a true and correct copy of excerpts of a transcript of Triadou’s Rule 30(b)(6) deposition, through Cerrito, dated March 10, 2017.

82. Attached hereto as Exhibit 253 is a true and correct copy of an October 2, 2013, letter from Petelina to Djoma of Ramsay International S.A., produced as Almaty-BTA0235099 and included in a selection of documents labeled as PX 102.

83. Attached hereto as Exhibit 254 is a true and correct copy of an October 2, 2013, letter from Petelina to Djoma of Ramsay International S.A., produced as Petelin000052 and included in a selection of documents labeled as PX 208.

84. Attached hereto as Exhibit 255 is a true and correct copy of excerpts of a transcript of Petelina’s deposition, dated December 18, 2017.

85. Attached hereto as Exhibit 256 is a true and correct copy of an “Agreement for the Provision of Nominee Services” for The Telford Trust, dated March 26, 2012, with exhibits, produced starting at Tria0004177.

86. Attached hereto as Exhibit 257 is a true and correct copy of a March 5, 2012, e-mail thread between Endrina and an Azure e-mail account, produced as Almaty-BTA0242321. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

87. Attached hereto as Exhibit 258 is a true and correct copy of a December 23, 2012, e-mail thread among Ilyas Khrapunov, Chetrit, and Bourg, produced starting at Chetrit00001811.

88. Attached hereto as Exhibit 259 is a true and correct copy of an October 27, 2012, e-mail from Chetrit to Bourg and Eric Elkain, provided by Bourg, produced as Almaty-BTA0191123, and included in a selection of documents labeled as Chetrit 10.

89. Attached hereto as Exhibit 260 is a true and correct copy of an October 28, 2012, e-mail thread among Ilyas Khrapunov, Chetrit, Bourg, and Elkain, produced as Almaty-BTA0191124 and included in a selection of documents labeled as Chetrit 10.

90. Attached hereto as Exhibit 261 is a true and correct copy of a November 1, 2012, e-mail thread between Chetrit and Elkain, produced starting at Chetrit00001573 and labeled as Chetrit 11.

91. Attached hereto as Exhibit 262 is a true and correct copy of a November 7, 2012, e-mail from Herz to Chetrit, Bourg, Ilyas Khrapunov, and Jehoshua Graff of Chetrit’s law firm Sukenik, Segal & Graff P.C., with an attachment, produced starting as Chetrit00000161 and labeled as Bourg 18.

92. Attached hereto as Exhibit 263 is a true and correct copy of a “Memo on Triadou: Flatotel and Cabrini investments,” produced starting at Almaty-BTA0396950.

93. Attached hereto as Exhibit 264 is a true and correct copy of an April 12, 2013, to April 16, 2013, e-mail thread among Bourg, Aggarwal, and Azure e-mail accounts, with an attachment, produced starting at Almaty-BTA0240050. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

94. Attached hereto as Exhibit 265 is a true and correct copy of an April 16, 2013, e-mail among Aggarwal, Krasimira Nikolova of FBME, and Azure e-mail accounts, produced at Almaty-BTA0240053. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

95. Attached hereto as Exhibit 266 is a true and correct copy of a January 23, 2013, to December 12, 2013, e-mail thread among Bourg, Chetrit, Graff, Meyer, Herz, Sater, Elkain, Aggarwal, and others, with attachments, produced starting at Almaty-BTA0127549 and labeled as Chetrit 16.

96. Attached hereto as Exhibit 267 is a true and correct copy of a December 12, 2013, e-mail thread among Bourg, Chetrit, and Meyer, produced starting at Chetrit00000248 and labeled as Chetrit 17.

97. Attached hereto as Exhibit 268 is a true and correct copy of an April 22, 2013, to May 22, 2013, e-mail thread among Eesh, Felix, Sater, Ridloff, Herz, Azure e-mail accounts, and others, with attachments, produced starting at Almaty-BTA0233603.

98. Attached hereto as Exhibit 269 is a true and correct copy of excerpts of a transcript of the second day of Sater’s deposition, dated February 5, 2019.

99. Attached hereto as Exhibit 270 is a true and correct copy of JPMorgan Chase Bank (“Chase”) records for RPM USA LLC, dated March 30, 2013, to April 30, 2013, and produced starting at Almaty-BTA0158553.

100. Attached hereto as Exhibit 271 is a true and correct copy of a Kramer Levin Naftalis & Frankel LLP (“Kramer Levin”) spreadsheet titled “Escrow Activity for Tri-County Mall,” produced as Almaty-BTA0166888, labeled as PX 45, and previously filed as ECF No. 129-11.

101. Attached hereto as Exhibit 272 is a true and correct copy of Chase records for Tri-County Mall Investors LLC, dated August 29, 2013, to August 30, 2013, and produced starting at Almaty-BTA0158708.

102. Attached hereto as Exhibit 273 is a true and correct copy of an October 30, 2013, letter from Wolf to Gillieron and Rosabianca, produced starting at Almaty-BTA0243600 and labeled as PX 213.

103. Attached hereto as Exhibit 274 is a true and correct copy of a January 14, 2016, e-mail from “I,” using the account jabba@cryptoheaven.com, to Martin Dowd of CBRE Syracuse and Peter Finn of CBRE Syracuse, produced as Almaty-BTA0231610.

104. Attached hereto as Exhibit 275 is a true and correct copy of a September 15, 2015, e-mail from “Ilias,” using the account jabba@cryptoheaven.com, to John Mako of Cushman & Wakefield plc, with carbon copies to Peter, Martin, and ikarus@cryptoheaven.com, produced as Almaty-BTA0231611 and labeled as PX 196.

105. Attached hereto as Exhibit 276 is a true and correct copy of a May 8, 2014, to May 9, 2014, e-mail thread between Artal and Graff, with attachments, produced starting at Almaty-BTA0153035.

106. Attached hereto as Exhibit 277 is a true and correct copy of excerpts of a Deutsche Bank Trust wire transfer spreadsheet for Triadou, produced as Almaty-BTA0214288.

107. Attached hereto as Exhibit 278 is a true and correct copy of a May 7, 2014, e-mail thread among Cerrito, Krasnov, and Meyer, produced starting at Tria0001393 and labeled as PX 10.

108. Attached hereto as Exhibit 279 is a true and correct copy of an October 22, 2014, e-mail thread between Cerrito and Krasnov, produced starting at Tria0000375 and labeled as PX 25.

109. Attached hereto as Exhibit 280 is a true and correct copy of a May 4, 2020, affirmation of Philip M. Smith filed in *Triadou SPV S.A. v. Chetrit*, No. 153040/2020 (N.Y. Sup. Ct. May 8, 2020).

110. Attached hereto as Exhibit 281 is a true and correct copy of an “Amended Verified Petition” filed in *Triadou SPV S.A. v. Chetrit*, No. 153040/2020 (N.Y. Sup. Ct. July 28, 2020).

111. Attached hereto as Exhibit 282 is a true and correct copy of an October 27, 2014, to October 29, 2014, e-mail thread among Cerrito, Krasnov, and others, produced starting at Tria0003075 and labeled as PX 13.

112. Attached hereto as Exhibit 283 is a true and correct copy of a November 18, 2014, to November 19, 2014, e-mail thread between Cerrito and Krasnov, produced as Tria0000317.

113. Attached hereto as Exhibit 284 is a true and correct copy of an October 27, 2014, to October 29, 2014, e-mail thread among Bourg, Cerrito, Krasnov, and others, with e-mail attachments, produced starting at Tria0005681.

114. Attached hereto as Exhibit 285 is a true and correct copy of an Order filed in *JSC BTA Bank v. Ablyazov*, No. 2010 Folio 706, an action in England’s High Court of Justice, Queen’s

Bench Division, Commercial Court (Teare, *J.*), dated April 19, 2013, previously filed as ECF Nos. 108-2 and 1298-22.

115. Attached hereto as Exhibit 286 is a true and correct copy of an Order filed in *JSC BTA Bank v. Ablyazov*, No. 2009 Folio 1099, an action in England's High Court of Justice, Queen's Bench Division, Commercial Court, dated May 27, 2011, produced starting at Almaty-BTA0017642.

116. Attached hereto as Exhibit 287 is a true and correct copy of an Order filed in *JSC BTA Bank v. Ablyazov*, No. CL-2015-000549, an action in England's High Court of Justice, Queen's Bench Division, Commercial Court (Waksman, *J.*), dated June 21, 2018, previously filed as ECF No. 916-4.

117. Attached hereto as Exhibit 288 is a true and correct copy of an Approved Judgment filed in *JSC BTA Bank v. Ablyazov*, No. CL-2015-000549, an action in England's High Court of Justice, Queen's Bench Division, Commercial Court (Waksman, *J.*), dated June 21, 2018, previously filed as ECF No. 916-1.

118. Attached hereto as Exhibit 289 is a true and correct copy of an April 16, 2001 "Decree About Privatization of Communal Property," signed by Viktor Khrapunov, with a translation, produced as Almaty-BTA0156000 and Almaty-BTA0156880 and labeled as PX 161.

119. Attached hereto as Exhibit 290 is a true and correct copy of a December 26, 2001 "Contract of Purchase and Sale of State Property by Way of Privatization" between Tercom and KazRealIncom, with a translation, produced as Almaty-BTA0156039 to Almaty-BTA0156042 and Almaty-BTA0156936 to Almaty-BTA0156938.

120. Attached hereto as Exhibit 291 is a true and correct copy of a translation of a December 2, 2011, "Witness Interrogation Protocol" prepared by Kazakh financial police Captain

D.K. Mustafin and signed by witness Abylaikhan Uvaliyevich Karymsakov, with a translation, produced as Almaty-BTA0156035 to Almaty-BTA0156038 and Almaty-BTA0156932 to Almaty-BTA0156935.

121. Attached hereto as Exhibit 292 is a true and correct copy of an October 16, 2013, “Contract of Purchase and Sale of an Equity Stake in TOO ‘Building Service Company,’” between Leila Kalibekovna (now known as Leila Khrapunova (“Leila”)) and TOO Stroitech Company, with a translation, produced as Almaty-BTA0156206 to Almaty-BTA0156209 and Almaty-BTA0157096 to Almaty-BTA0157100.

122. Attached hereto as Exhibit 293 is a true and correct copy of excerpts of a transcript of a Rule 30(b)(6) deposition of Almaty, through Baourzhan Darmanbekov, dated May 10, 2017.

123. Attached hereto as Exhibit 294 is a true and correct copy of “Crossclaim-Plaintiffs’ First Amended Responses and Objections to Crossclaim-Defendant Triadou SPV S.A.’s Second Set of Interrogatories,” dated December 18, 2017.

124. Attached hereto as Exhibit 295 is a true and correct copy of a December 11, 2017, *Bloomberg* article titled “Was Trump SoHo Used to Hide Part of Kazakh Bank’s Missing Billions?” and located at <https://www.bloomberg.com/news/features/2017-12-11/was-trump-soho-used-to-hide-part-of-a-kazakh-bank-s-missing-billions>.

125. Attached hereto as Exhibit 296 is a true and correct copy of an Order filed in *JSC BTA Bank v. Ablyazov*, No. 2011 Folio 79, an action in England’s High Court of Justice, Queen’s Bench Division, Commercial Court (Teare, J.), dated November 23, 2012, entered on November 26, 2012, and previously filed as ECF No. 1298-21.

126. Attached hereto as Exhibit 297 is a true and correct copy of an Order filed in *JSC BTA Bank v. Ablyazov*, No. 2010 Folio 706, an action in England’s High Court of Justice, Queen’s

Bench Division, Commercial Court (Teare, J.), dated April 22, 2013, and previously filed as ECF No. 1298-23.

127. Attached hereto as Exhibit 298 is a true and correct copy of an Order filed in *JSC BTA Bank v. Ablyazov*, No. 2009 Folio 1099, an action in England's High Court of Justice, Queen's Bench Division, Commercial Court (Teare, J.), dated November 23, 2012, and previously filed as ECF No. 1298-25.

128. Attached hereto as Exhibit 299 is a true and correct copy of an Order filed in *JSC BTA Bank v. Solodchenko*, No. HC10C02462, an action in England's High Court of Justice, Chancery Division (Henderson, J.), dated November 26, 2013, and previously filed as ECF No. 1298-27.

129. Attached hereto as Exhibit 300 is a true and correct copy of a "Deed of Settlement" purportedly dated April 10, 2009; signed by McGowan, Whitehead, and Petelin; and labeled as FM 9.

130. Attached hereto as Exhibit 301 is a true and correct copy of a "Loan Facility Agreement"—purportedly dated April 10, 2009 and signed by Whitehead and Petelin—and spreadsheet, produced starting at Almaty-BTA0251623.

131. Attached hereto as Exhibit 302 is a true and correct copy of a letter from Ablyazov to SMP Partners, purportedly dated April 10, 2009, and labeled as FM 6A.

132. Attached hereto as Exhibit 303 is a true and correct copy of excerpts of a transcript of a deposition of John Hargett, dated July 10, 2019.

133. Attached hereto as Exhibit 304 is a true and correct copy of a collection of signatures made by Ablyazov and Ilyas Khrapunov in various documents, labeled as Hargett 7.

134. Attached hereto as Exhibit 305 is a true and correct copy of a “Deed Poll,” purportedly dated April 10, 2009, signed by Ablyazov, and labeled as FM 8A.

135. Attached hereto as Exhibit 306 is a true and correct copy of a “Deed Poll” produced starting at Petelin001379 and labeled as Petelin 6.

136. Attached hereto as Exhibit 307 is a true and correct copy of a letter from Ablyazov to Whitehead, purportedly dated April 10, 2009, and produced by SMP Partners starting at Almaty-BTA0396426. The document is one of SMP Partners’ records provided by Kazakh criminal investigators through the Isle of Man. *See supra* ¶ 9.

137. Attached hereto as Exhibit 308 is a true and correct copy of a “Deed Poll,” purportedly dated April 10, 2009, signed by Ablyazov, and produced by SMP Partners starting at Almaty-BTA0396428. The document is one of SMP Partners’ records provided by Kazakh criminal investigators through the Isle of Man. *See supra* ¶ 9.

138. Attached hereto as Exhibit 309 is a true and correct copy of a March 13, 2012, to March 14, 2012, e-mail thread among Ilyas Khrapunov, “oilman2030@gmail.com,” Aggarwal, and Endrina, with an attachment, produced starting at Almaty-BTA0238879 and labeled as PX 187.

139. Attached hereto as Exhibit 310 is a true and correct copy of an April 11, 2012, to April 12, 2012, e-mail thread among “oilman2030@gmail.com,” Aggarwal, Endrina, and Wend, with an attachment, produced starting at Almaty-BTA0238847 and labeled as PX 188.

140. Attached hereto as Exhibit 311 is a true and correct copy of a January 11, 2012, to January 12, 2012, e-mail thread among “oilman2030@gmail.com,” Aggarwal, and Endrina, produced starting at Almaty-BTA0239031 and labeled as PX 189.

141. Attached hereto as Exhibit 312 is a true and correct copy of a March 13, 2012, to March 14, 2012, e-mail thread among “oilman2030@gmail.com,” Aggarwal, and Endrina, with attachment, produced starting at Almaty-BTA0238877 and labeled as PX 190.

142. Attached hereto as Exhibit 313 is a true and correct copy of an “Agreement for the Provision of Nominee Services of Director and/or Secretary and/or Member,” dated November 26, 2007, produced starting at Almaty-BTA0235465, and included in a selection of documents labeled as PX 207.

143. Attached hereto as Exhibit 314 is a true and correct copy of an October 2, 2013, letter from Petelin to Annick Lalaina Razafindrakoto of Northern Sea Waterage Inc., produced as Almaty-BTA0235107 and included in a selection of documents labeled as PX 102.

144. Attached hereto as Exhibit 315 is a true and correct copy of excerpts of a Deutsche Bank Trust Company Americas (“Deutsche Bank Trust”) wire transfer spreadsheet for Vilder Company S.A., produced as Almaty-BTA0214289.

145. Attached hereto as Exhibit 316 is a true and correct copy of a September 17, 2014, letter from Arnie Herz, produced as Herz0005121.

146. Attached hereto as Exhibit 317 is a true and correct copy of excerpts of a Deutsche Bank Trust wire transfer spreadsheet for RPM-MARO LLC, produced as Almaty-BTA0214283.

147. Attached hereto as Exhibit 318 is a true and correct copy of a May 22, 2013, e-mail thread among Ilyas Khrapunov, Sater, Herz, Bourg, and others, labeled as Almaty-BTA0243518.

148. Attached hereto as Exhibit 319 is a true and correct copy of a “Power of Attorney” signed by Lisa Mutter of Claydon Industrial Limited, produced as Almaty-BTA0342218. The document is one of SMP Partners’ records provided by Kazakh criminal investigators through the Isle of Man. *See supra ¶ 9.*

149. Attached hereto as Exhibit 320 is a true and correct copy of a spreadsheet titled “Zhaikmunai Group Structure,” produced as Almaty-BTA0279914. The document is one of SMP Partners’ records provided by Kazakh criminal investigators through the Isle of Man. *See supra ¶ 9.*

150. Attached hereto as Exhibit 321 is a true and correct copy of a January 10, 2018, e-mail from Martha Boersch of Boersch Shapiro LLP to Ilyas Khrapunov through his e-mail account “yodamaster@cryptoheaven.com,” produced as Khrapunov0688246 and previously filed as ECF No. 703-5.

151. Attached hereto as Exhibit 322 is a true and correct copy of a January 10, 2018, to January 11, 2018 e-mail thread among Boersch, Ilyas Khrapunov, and others, produced starting at Khrapunov0688292 and previously filed as ECF No. 703-6.

152. Attached hereto as Exhibit 323 is a true and correct copy of a February 25, 2018, e-mail thread between Ilyas Khrapunov and Eugene Illovsky of Illovsky Law Office, produced starting at Khrapunov0688941 and previously filed as ECF No. 703-8.

153. Attached hereto as Exhibit 324 is a true and correct copy of a March 13, 2018, e-mail thread between Ilyas Khrapunov and Illovsky, produced as Khrapunov0689425 and previously filed as ECF No. 703-9.

154. Attached hereto as Exhibit 325 is a true and correct copy of a March 12, 2018, e-mail thread between Ilyas Khrapunov and Illovsky, produced as Khrapunov0689443 and previously filed as ECF No. 703-10.

155. Attached hereto as Exhibit 326 is a true and correct copy of an April 21, 2018, to April 25, 2018, e-mail thread between Ilyas Khrapunov and Illovsky, produced starting at Khrapunov0690282 and previously filed as ECF No. 703-18.

156. Attached here to as Exhibit 327 is a true and correct copy of a “Customer Inquiry Automation Inbound Messages” report from Banque Privée Edmond de Rothschild, produced starting at Almaty-BTA0166387.

157. Attached hereto as Exhibit 328 is a true and correct copy of a May 20, 2013, e-mail thread among Aggarwal, “thenickelguy@gmail.com,” and Azure e-mail accounts, produced starting at Almaty-BTA0233671. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

158. Attached hereto as Exhibit 329 is a true and correct copy of a May 22, 2013, e-mail thread among Aggarwal, Michel Saab of FBME, Charles Charalambous of FBME, and Azure e-mail accounts, with attachments, produced starting at Almaty-BTA0234187. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

159. Attached hereto as Exhibit 330 is a true and correct copy of a September 5, 2013, e-mail from Sahagun to Ioannis Petri of FBME, Aggarwal, Endrina, other FBME staff members, and Azure e-mail accounts, with an attachment, produced starting at Almaty-BTA0248079. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

160. Attached hereto as Exhibit 331 is a true and correct copy of a September 5, 2013, e-mail from Sahagun to Petri, Aggarwal, Endrina, FBME staff members, and Azure e-mail accounts, with an attachment, produced starting at Almaty-BTA0248081. The document is one of Aggarwal’s records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

161. Attached hereto as Exhibit 332 is a true and correct copy of a September 9, 2013, to September 16, 2013, e-mail thread among George Kaknis of FBME, Sahagun, Aggarwal,

Endrina, Petri, and an Azure e-mail account, with attachments, produced starting at Almaty-BTA0248095. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

162. Attached hereto as Exhibit 333 is a true and correct copy of an "Incorporation Certificate" for Toplink Limited ("Toplink"), dated January 29, 2013, and produced as Tria0012563.

163. Attached hereto as Exhibit 334 is a true and correct copy of an "Agreement for the Provision of Nominee Services of Director and/or Secretary and/or Member" for Toplink between Glatz and Sukhjinder Singh Thandi, dated January 29, 2013, and produced starting at Tria0012578.

164. Attached hereto as Exhibit 335 is a true and correct copy of a chart titled "Toplink Ltd. Structure January 2013," produced as Tria0012585.

165. Attached hereto as Exhibit 336 is a true and correct copy of a "Certificate of Registration" for The Toplink Trust settled on January 29, 2013, dated February 6, 2013, and produced as Tria0012641.

166. Attached hereto as Exhibit 337 is a true and correct copy of "Resolutions by the sole trustee," signed by Thandi, dated February 6, 2013, and produced as Tria0012642.

167. Attached hereto as Exhibit 338 is a true and correct copy of a June 11, 2013, e-mail from Anshu Aggarwal to Beenish Ayub of ABN AMRO Bank ("ABN AMRO") and an Azure e-mail account, with an attachment, produced starting at Almaty-BTA0236280. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

168. Attached hereto as Exhibit 339 is a true and correct copy of a May 7, 2013, to June 10, 2013, e-mail thread among Glatz, Aggarwal, and Azure e-mail accounts, produced starting at Tria0012595.

169. Attached hereto as Exhibit 340 is a true and correct copy of a May 7, 2013, e-mail between Aggarwal and Azure e-mail accounts, produced starting at Almaty-BTA0234149 and labeled as PX 75. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

170. Attached hereto as Exhibit 341 is a true and correct copy of an April 2, 2013, e-mail from Bhatia to an Azure e-mail account, produced as Almaty-BTA0233523 at labeled as PX 70. The document is one of Aggarwal's records provided by Kazakh criminal investigators through the UAE. *See supra ¶ 44.*

171. Attached hereto as Exhibit 342 is a true and correct copy of a July 16, 2013, e-mail thread among Bourg, Ilyas Khrapunov, Meyer, Alexey Alekseev of Black Sea Trade and Development Bank, and Michael Tsirikos of Dolphin Capital Partners, previously filed as ECF No. 142-7.

172. Attached hereto as Exhibit 343 is a true and correct copy of a May 21, 2013, e-mail thread among Ilyas Khrapunov, Ridloff, Meyer, Bourg, Sater, Herz, Gillieron, and Berengere Perez Pelletier, produced starting at Almaty-BTA0243514.

173. Attached hereto as Exhibit 344 is a true and correct copy of a May 21, 2013, e-mail thread among David S. Bence of Frost Brown Todd LLC, Daniel Berman of Kramer Levin, Ridloff, employees of Karlin Real Estate, and others, produced starting at Almaty-BTA0171132.

174. Attached hereto as Exhibit 345 is a true and correct copy of a July 18, 2014, to July 28, 2014, e-mail thread among Cerrito, Garneau, and others, with attachments, produced starting at Tria0001340 and labeled as PX 78.

175. Attached hereto as Exhibit 346 is a true and correct copy of an April 24, 2014, to August 18, 2014, e-mail thread among Cerrito and others, produced starting at Tria0001263.

176. Attached hereto as Exhibit 347 is a true and correct copy of an October 2, 2014, e-mail thread among Cerrito, Glatz, and others, produced starting at Tria0001184 and labeled as PX 79.

177. Attached hereto as Exhibit 348 is a true and correct copy of an April 28, 2014, "Minutes of the Conference Call of the Board of Directors," produced starting as Tria011399 and part of a set of documents labeled as PX 50.

178. Attached hereto as Exhibit 349 is a true and correct copy of an April 28, 2014, "Minutes of the Meeting of the Board of Directors," produced starting as Tria011392 and part of a set of documents labeled as PX 50.

179. Attached hereto as Exhibit 350 is a true and correct copy of excerpts of a transcript of a deposition of Thomas Tener, dated August 12, 2019.

180. Attached hereto as Exhibit 351 is a true and correct copy of Tener's expert report, produced starting at MillerCicero00000432 and labeled as Tener 3.

181. Attached hereto as Exhibit 352 is a true and correct copy of a November 7, 2014, e-mail thread between Cerrito and Krasnov, produced starting at Tria0000333 and labeled as PX 15.

182. Attached hereto as Exhibit 353 is a true and correct copy of excerpts of a transcript of a deposition of Wayne Horvath, dated July 24, 2019.

183. Attached hereto as Exhibit 354 is a true and correct copy of a May 14, 2013, “Promissory Note” signed by 227 East 19th Holder LLC, produced starting at Chetrit00000729.

184. Attached hereto as Exhibit 355 is a true and correct copy of an April 28, 2014, letter from Bourg to Chetrit, with an appendix, produced starting at Chetrit00000726.

185. Attached hereto as Exhibit 356 is a true and correct copy of an April 12, 2016, “Order to Show Cause” in *Triadou SPV S.A. v. CF 135 Flat LLC*, No. 653462/2014 (N.Y. Sup. Ct.).

186. Attached hereto as Exhibit 357 is a true and correct copy of a May 4, 2016, “Monitorship Order” in *Triadou SPV S.A. v. CF 135 Flat LLC*, No. 653462/2014 (N.Y. Sup. Ct.), previously filed as ECF No. 989-1.

187. Attached hereto as Exhibit 358 is a true and correct copy of a June 26, 2018, “Monitor’s Decision” in *Triadou SPV S.A. v. CF 135 Flat LLC*, No. 653462/2014 (N.Y. Sup. Ct.), previously filed as ECF No. 989-3.

188. Attached hereto as Exhibit 359 is a true and correct copy of an Approved Judgment filed in *JSC BTA Bank v. Ablyazov*, No. CL-2015-000549, an action in England’s High Court of Justice, Queen’s Bench Division, Commercial Court (Phillips, J.), dated January 20, 2016, and previously filed as ECF No. 108-5.

189. Attached hereto as Exhibit 360 is a true and correct copy of a declaration of Bauyrzhan Darmanbekov, dated January 19, 2016, and labeled as Almaty 10.

190. Attached hereto as Exhibit 361 is a true and correct copy of an October 9, 2018, *Astana Times* article titled “Former Almaty mayor, wife, sentenced to prison” and located at <https://astanatimes.com/2018/10/former-almaty-mayor-wife-sentenced-to-prison>.

191. Attached hereto as Exhibit 362 is a true and correct copy of a November 28, 2001, announcement by the Territorial Committee on State Asset and Privatization of the City of Almaty (“Tercom”), with a translation, produced as Almaty-BTA0156019, Almaty-BTA0156916, and Almaty-BTA0156917.

192. Attached hereto as Exhibit 363 is a true and correct copy of a December 13, 2001, Tercom resolution regarding TOO KazRealIncom (“KazRealIncom”), with a translation, produced as Almaty-BTA0156014 and Almaty-BTA0156910 and labeled as PX 163.

193. Attached hereto as Exhibit 364 is a true and correct copy of excerpts of *Treasury Reporting Rates of Exchange as of December 31, 2001*, published by the International Funds Branch of the United States Treasury Department’s Financial Management Service and located at https://www.govinfo.gov/content/pkg/GOVPUB-T63_100-aa767e4f543491f91e29248bb5cafbf9/pdf/GOVPUB-T63_100-aa767e4f543491f91e29248bb5cafbf9.pdf.

194. Attached hereto as Exhibit 365 is a true and correct copy of an October 17, 2011, “Witness Interrogation Protocol” prepared by Kazakh financial police Lieutenant Colonel S.V. Ongirskii and signed by witness Karymsakov, with a translation, produced as Almaty-BTA0156426 to Almaty-BTA0156434 and Almaty-BTA0157293 to Almaty-BTA0157300.

195. Attached hereto as Exhibit 366 is a true and correct copy of an April 11, 2002, “Resolution of the Founder #1” prepared by TOO “General Realty” (“General Realty”), with a translation, produced as Almaty-BTA0156801 and Almaty-BTA0157163.

196. Attached hereto as Exhibit 367 is a true and correct copy of a September 26, 2003, “Acceptance Certificate” signed by Tercom and KazRealIncom, with a translation, produced as Almaty-BTA0156046, Almaty-BTA0156047, and Almaty-BTA0156942 and labeled as PX 164.

197. Attached hereto as Exhibit 368 is a true and correct copy of a September 30, 2003, “Resolution of Sole Member of TOO ‘Karasha Plus,’” with a translation, produced as Almaty-BTA0156803 and Almaty-BTA0157165 and labeled as PX 165.

198. Attached hereto as Exhibit 369 is a true and correct copy of an October 1, 2003, “Contract of Purchase and Sale of a Premise with Land” between KazRealIncom and TOO “Karasha Plus” (“Karasha Plus”), with a translation, produced as Almaty-BTA0156049, Almaty-BTA0156944, and Almaty-BTA0156945.

199. Attached hereto as Exhibit 370 is a true and correct copy of an October 3, 2003, “Contract of Purchase and Sale of a Premise with Land” between Karasha Plus and Leila, with a translation, produced as Almaty-BTA0156070, Almaty-BTA0156963, and Almaty-BTA0156964 and labeled as PX 166.

200. Attached hereto as Exhibit 371 is a true and correct copy of a February 11, 2002, “Foundation Agreement about the Creation and Operation of TOO ‘GENERAL REALTY,’” with a translation, produced as Almaty-BTA0156256 to Almaty-BTA0156262 and Almaty-BTA0157154 to Almaty-BTA0157158.

201. Attached hereto as Exhibit 372 is a true and correct copy of a SPARK profile for General Realty, dated March 30, 2015, with a translation, produced as Almaty-BTA0156505, Almaty-BTA0157313, and Almaty-BTA0157314. The Interfax Group, a news media organization in the Russian Federation, created the SPARK system to provide business profiles and internal corporate information about companies in Kazakhstan and other countries. *See SPARK*, <https://spark-interfax.com> (last visited October 6, 2020). The Court may take judicial notice of the authoritative SPARK profiles under Federal Rule of Evidence 201(c), and/or admit them pursuant to Rule 803(17) or 807.

202. Attached hereto as Exhibit 373 is a true and correct copy of a SPARK profile for Karasha Plus, dated March 30, 2015, with a translation, produced as Almaty-BTA0156503 and Almaty-BTA0157311.

203. Attached hereto as Exhibit 374 is a true and correct copy of an October 6, 2003, “Contract of the Property Transfer to the Charter Capital of the Partnership,” with a translation, produced as Almaty-BTA0156071 and Almaty-BTA0156965 and labeled as PX 167.

204. Attached hereto as Exhibit 375 is a true and correct copy of an October 6, 2003, “Decision of the Member of TOO ‘Building Service Company,’” signed by Leila, with a translation, produced as Almaty-BTA0156193, Almaty-BTA0156194, Almaty-BTA0157081, and Almaty-BTA0157082.

205. Attached hereto as Exhibit 376 is a true and correct copy of excerpts of *Treasury Reporting Rates of Exchange as of September 30, 2003*, published by the International Funds Team of the United States Treasury Department’s Financial Management Service and located at https://www.govinfo.gov/content/pkg/GOVPUB-T63_100-4e5d4869545cc364844e61ab4b90ee2e/pdf/GOVPUB-T63_100-4e5d4869545cc364844e61ab4b90ee2e.pdf.

206. Attached hereto as Exhibit 377 is a true and correct copy of a “Resolution of Sole Member of TOO ‘Building Service Company,’” with a translation, produced as Almaty-BTA0156263 and Almaty-BTA0157159.

207. Attached hereto as Exhibit 378 is a true and correct copy of an excerpt of an August 4, 2011, JSC Eurasian Bank statement for Leila’s checking account 01KZT000030110101, with a translation, produced as Almaty-BTA0156213 and Almaty-BTA0157109.

208. Attached hereto as Exhibit 379 is a true and correct copy of a May 7, 2004, “Acceptance Act of the Transfer Agreement of Immovable Property No. BSC-07/05/04,” with a translation, produced as Almaty-BTA0156496, Almaty-BTA0156497, and Almaty-BTA0156890.

209. Attached hereto as Exhibit 380 is a true and correct copy of an August 26, 2011, “Information about Registrations of Real Property,” prepared by Justice Ministry of Kazakhstan, with a translation, produced as Almaty-BTA0156063 to Almaty-BTA0156069 and Almaty-BTA0156956 to Almaty-BTA0156962.

210. Attached hereto as Exhibit 381 is a true and correct copy of a SPARK profile for TOO BANK INVEST (“BANK INVEST”), dated March 30, 2015, with a translation, produced as Almaty-BTA0156650 and Almaty-BTA0157387.

211. Attached hereto as Exhibit 382 is a true and correct copy of a SPARK profile for TOO Eseke (“Eseke”), dated November 2, 2015, with a translation, produced as Almaty-BTA0156654 and Almaty-BTA0157391.

212. Attached hereto as Exhibit 383 is a true and correct copy of an August 15, 2007, “Supplemental Legal Conclusion” prepared by Kazakhstan’s Department of Legal Support of Corporate Business, with a translation, produced as Almaty-BTA0070569 to Almaty-BTA0070577 and Almaty-BTA0070578 to Almaty-BTA0070585.

213. Attached hereto as Exhibit 384 is a true and correct copy of excerpts of a transcript of a deposition of Baurzhan Kurmanov dated September 24, 2019.

214. Attached hereto as Exhibit 385 is a true and correct copy of excerpts of a transcript of a sworn statement by Kurmanov, given on September 24, 2019.

215. Attached hereto as Exhibit 386 is a true and correct copy of an August 11, 2018, email from Alex Hassid to Matthew L. Schwartz and others, previously filed as ECF No. 1080-12.

216. Attached hereto as Exhibit 387 is a true and correct copy of excerpts of a transcript of a May 19, 2016, attachment hearing before the Court in this case, then captioned as *CF 135 Flat LLC v. Triadou SPV S.A.*, No. 15-cv-5345 (AJN), previously filed as ECF No. 163.

217. Attached hereto as Exhibit 388 is a true and correct copy of a May 1, 2013, e-mail from an Azure e-mail account to Aggarwal and another Azure e-mail account, produced starting at Almaty-BTA0241940.

218. Attached hereto as Exhibits 389A and 389B is a true and correct copy of the “Settlement Agreement and General Release” between Triadou and Sater, dated December 23, 2013, with exhibits, produced starting at Almaty-BTA0243613.

219. On July 1, 2020, Triadou filed a motion for summary judgment. ECF No. 1282. As part of its motion, Triadou contends that BTA’s claims should fail “under the doctrine of *in pari delicto* because BTA was a voluntary participant” in the relevant conduct and caused its own harm. ECF No. 1287 at 55.

220. As set forth in the accompanying memorandum of law, Triadou did not plead *in pari delicto* in its answer, and therefore waived the defense. Triadou nonetheless asks the Court to forgive its waiver.

221. Among other reasons, the Court should not excuse Triadou’s waiver because the Kazakh Entities did not have a fair opportunity to develop the record on such a defense, and the Kazakh Entities would therefore be prejudiced. While Triadou did plead unclean hands, that defense could not possibly serve as a defense to the Kazakh Entities’ remaining claims (which are legal, not equitable), and the Kazakh Entities therefore had no reason to develop the discovery record with respect to unclean hands.

222. Under Federal Rule of Civil Procedure 56(d), the Court should deny Triadou’s motion on *in pari delicto* grounds or, in the alternative, permit discovery limited to the *in pari delicto* defense. *See generally Paddington Partners v. Bouchard*, 34 F.3d 1132 (2d Cir. 1994).

223. BTA was taken totally by surprise by Triadou’s previously unpledged defense of *in pari delicto*. If permitted, the post-discovery invocation of the doctrine would cause significant prejudice to BTA. Had BTA known that Triadou would try to assert that defense, BTA would have spent time developing the record of, for instance, the extent to which Ablyazov and his co-conspirators intentionally deceived others within BTA to perpetrate their scheme, including evidence of interactions between members of UKB6 and innocent BTA employees.

224. As the Court is aware, BTA was nationalized in 2009. While BTA continued to operate as a lending institution for a period of time, following a series of mergers, BTA no longer issues new loans. Because of this, and the passage of time, no relevant witness of whom I am aware is currently a BTA employee or otherwise within the control of BTA.

225. BTA would therefore need to conduct third-party discovery of its former employees—most of whom, to my knowledge, continue to reside in Kazakhstan.

226. For example, BTA would take discovery of former BTA employees who were associated with the Credit Committee. The discovery would help demonstrate, among other things, that BTA employees did not generally know of Ablyazov’s scheme; about the relationship between him and counter-parties to the UKB6 loans; or about the fraudulent nature of those loans, including the fake purpose provided for the loans. Instead, the discovery would help show that unwitting members of the Credit Committee approved the UKB6 loans in reliance on these lies.

227. Similarly, the discovery would help show that members of the Credit Committee and others with BTA were deceived by “roundtripping” activity—in which new fake loans were

issued to Ablyazov-controlled shell companies, the proceeds of which were immediately sent to earlier “borrowers,” and then back to the bank itself, to create the false appearance that the UKB6 loans were being repaid.

228. BTA would also seek discovery from Ablyazov’s co-conspirators, who could testify about the extent to which they deceived others within the Bank. Zhaksylyk Zharimbetov, for example, was the chair of the Credit Committee and a known co-conspirator to Ablyazov. He is no longer with the bank and not under the Kazakh Entities’ control.

229. This discovery would help sever any agency relationship between BTA and Ablyazov and his co-conspirators at the bank, and demonstrate conclusively that Ablyazov was acting for his personal benefit.

230. The former employees are not immediately available to BTA or the undersigned counsel for its opposition to Triadou’s summary judgment motion because relevant members of the Credit Committee are no longer employed with the bank and it has no authority over them and other former employees.

231. BTA no longer can seek documents or testimony from the employees because the discovery period has ended, and Triadou has vigorously refused to permit any ongoing discovery.

232. BTA was diligent in prosecuting its claims. The Kazakh Entities undertook an immense fact-finding mission to develop the factual record of the fraudulent activity occurring within UKB6, precisely to demonstrate the sham nature of the loans that funded the Zhaikmunai acquisition. The Kazakh Entities obtained discovery from former employees, including Moldakhmet, Junussova, and Sadykov, who testified regarding UKB6’s fraudulent conduct and its oversight by Ablyazov and his co-conspirators, such as Tatishev.

233. As explained in the Kazakh Entities’ response to Triadou’s Local Civil Rule 56.1 statement, Junussova testified that UKB6 prepared the loan applications that were transmitted to the Credit Committee and the loan agreements, and that UKB6 maintained the corporate and accounting records for the UKB6 companies. BTA’s understanding is that those falsified documents undergirded the Credit Committee’s approval.

234. Likewise, UKB6 issued later loans to create the false appearance that earlier ones were being paid back. While BTA developed, and had an incentive to develop, evidence of this “roundtripping” conduct to the extent it was an integral part of the money laundering scheme, BTA had no reason to concentrate on the way the roundtripping transactions were perceived within the bank. Had BTA known that Triadou intended to assert an *in pari delicto* defense, BTA would have developed evidence that the roundtripping conduct deceived innocent BTA employees, including members of the Credit Committee, into believing the UKB6 loans had been repaid.

235. It is notable in this regard that Triadou took virtually no discovery relating to the underlying scheme at BTA.

236. For example, on May 3, 2017, Triadou deposed BTA’s Rule 30(b)(6) witness. Counsel for Triadou did not ask any questions to BTA about the circumstances of Ablyazov’s fraud or the evidence BTA had to corroborate that fraud. Triadou’s questioning instead focused on BTA’s knowledge of the flow of funds after Ablyazov committed the fraud.

237. Triadou also did not notice the deposition of a single current or former BTA employee. Thus, there was no reasonable way to discern from Triadou’s litigation behavior, prior to the close of discovery, that Triadou intended to pursue an *in pari delicto* defense or, for that matter, that it was seriously pursuing its unclean hands defense.

238. Under Rule 56(d), the Court should deny Triadou's motion or, in the alternative, reopen discovery. Should the Court reopen discovery, at a minimum, the Kazakh Entities would seek to take the testimony of several former BTA employees. Although those former employees are not currently in BTA's control, upon information and belief, the Kazakh Entities would be able to secure their agreement to a deposition, just as the Kazakh Entities previously secured the depositions of former BTA employees Moldakhmet, Junossova, and Sadykov.

239. Given the time and expense of securing additional depositions in Kazakhstan, however, the Kazakh Entities respectfully submit that denying Triadou's motion on this point—and indeed refusing to allow Triadou to assert the *in pari delicto* defense at all—is the appropriate result.

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 6, 2020

/s/ Matthew L. Schwartz
Matthew L. Schwartz